



COMMUNITY DEVELOPMENT DEPARTMENT

17575 Peak Avenue Morgan Hill CA 95037 (408) 778-6480 Fax (408) 779-7236
Website Address: www.morgan-hill.ca.gov

PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

OCTOBER 25, 2011

PRESENT: Moniz, Mueller, Tanda, Koepp-Baker, Dommer, McKay

ABSENT: Benich

LATE: None

STAFF: Assistant City Manager (ACM) Little, Interim Community & Economic Development Administrator (ICEDA) Rowe, Senior Planner (SP) Tolentino, and Development Services Technician (DST) Bassett

Chair Moniz called the meeting to order at 7:00 p.m., inviting all present to join in reciting the pledge of allegiance to the U.S. flag.

DECLARATION OF POSTING OF AGENDA

Interim Community & Economic Development Administrator (ICEDA) Rowe certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Moniz opened, and then closed, the floor to public comment for matters not appearing on the agenda as none were in attendance indicating a wish to address such matters.

ORDERS OF THE DAY

No changes.

MINUTES:

September 27, 2011 COMMISSIONERS MUELLER AND DOMMER MOTIONED TO APPROVE THE SEPTEMBER 27, 2011 MINUTES WITH THE FOLLOWING REVISIONS:

Page 7, Paragraph 14: COMMISSIONERS MUELLER AND MCKAY MOTIONED TO APPROVE THE MODIFIED RESOLUTION WITH THE CHANGES INCLUSION OF OMITTED PAGE 7 OF STANDARD CONDITIONS.

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THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: BENICH

**PUBLIC
HEARINGS:**

**1) GENERAL PLAN
AMENDMENT,
GPA-11-02/
ZONING
AMENDMENT,
ZA-11-03/
ENVIRONMENTAL
ASSESSMENT,
EA-11-03: JUAN
HERNANDEZ-
HEALTH TRUST:**

A request to amend the General Plan Land Use and Zoning Designations on an approximate 20-acre site from *Campus Industrial* to *Commercial* and *Service Commercial*, respectively. The project would also add a policy and action statement to the Open Space and Conservation Element of the General Plan regarding greenhouse gas emissions and the preparation of a Climate Action Plan. No specific development is proposed by the project at this time. The project is located between Juan Hernandez Drive and US Highway 101, directly south of Barrett Avenue. A mitigated Negative Declaration is proposed (APNs 817-09-039 thru -041).

Tolentino presented her staff report.

Koepp-Baker: Do we have any situation in the city existing now that would be comparable to the change we're being asked to make?

Tolentino: Britton Junior High and Central High School are both adjacent to commercial designations.

Moniz: Would the discussions for the PD overlay be part of a motion?

Tolentino: It could be, but you wouldn't be able to add uses, you'd only be able to restrict currently listed uses.

Dommer: What does Campus Industrial really mean?

Tolentino: It is a designation that is specific to administrative facilities, research institutions and specialized manufacturing. These types of uses are currently allowed in our Light Industrial and General Industrial districts. It was a designation that was appropriate in the 1990s but really hasn't been a needed designation in terms of bringing in business since then.

Dommer: Does specialized manufacturing mean light manufacturing?

Tolentino: I believe it is more consistent with light industrial rather than heavy industrial.

Mueller: Our campus industrial is probably more restrictive than most in the valley in terms of building coverage. It calls for a very small building coverage on a big piece of land. There has not been a lot of that type of development in a long time.

McKay: If it stays campus industrial, then this single parcel cannot be subdivided, so anyone that uses it has to take the full 18 acres?

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Tolentino: That is correct. The minimum lot size in campus industrial is 20 acres, this site is 18 acres.

Moniz: In the Logan and Powell letter, they mention the concern that a potential use could be convenience stores and gas stations, both of which sell alcohol and tobacco products. Can you educate us on the regulations next to a school?

Tolentino: In the Service Commercial district, convenience markets are a conditional use, so that type of use would have to be presented before the Planning Commission. The Planning Commission would then have the opportunity to set regulations.

Moniz: Is there a restriction for selling alcohol and tobacco at a certain distance from a school?

Rowe: Not the particular products you're mentioning but there is a requirement that convenience markets must be a minimum of 1,000 feet from a school.

Moniz: Are there any more questions?

Mueller: This particular piece of property seems to be one of the few in our city with freeway frontage and good freeway visibility that is available for development. Is that true?

Tolentino: The southwest quadrant is undeveloped and it is PD commercial. There are also some sites between the freeway and Condit that are undeveloped. On the northern side of the city south of Cochrane, there is also some undeveloped land.

Mueller: Yes, but that piece on the east side of the freeway is owned by one particular person so it's probably not available for sale, since that owner has been accumulating property there for years. This is a large piece and across Tennant is another large one. The ones on Condit are much smaller parcels.

Tanda: We are being asked to approve a conservation policy and an action plan. Is this project driving those policies, or is this being piggy-backed to the project.

Tolentino: Both. It was already on the City's work plan to prepare a climate action plan; however, without these General Plan action and policy statements, this project would have required further environmental review. With the inclusion of this policy we're able to mitigate that impact so a Mitigated Negative Declaration could be adopted. It was already in the plan and we had to formalize it with this project.

Tanda: So if these policies were not part of the approved action they would require further environmental work?

Tolentino: Correct. We would not be able to mitigate for the greenhouse gas emissions and we would have to prepare an environmental impact report.

Tanda: Is that true also of the second item?

Tolentino: With this inclusion, it takes care of the second item and all subsequent

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applications.

Tanda: There is a discussion about various site options and one had to do with the residential land use designation. You indicated that developing within 500 feet of the freeway would be prohibited. So I'm wondering about a project we had looked at on the east side of 101 south of Tennant. I thought the proposal was to go to residential. Would this policy have applied there also?

Tolentino: Yes, the 500 feet is a general number. They do modeling that takes into account the angle of the freeway, wind patterns, traffic volumes, etc., to determine the exact setback. On the west side of the freeway, it's about 500 feet. On the east side, some detailed air quality testing would have to be performed to determine the exact separation.

Tanda: Is there anything that would limit the amount of new commercial development based on the amount of vacant commercial space already available?

Tolentino: I'm not aware of any threshold that would preclude adding more commercial.

Koepp-Baker: What is high turnover sit-down restaurant?

Tolentino: A good example would be Denny's, where the menu provides for faster in-and-out service.

Koepp-Baker: This would have to come in as a unified plan?

Tolentino: Under the existing campus industrial it would. Under the service commercial proposed, it has a much smaller minimum lot size. I believe it is 10,000 square feet. If it is the Commission's intent to require that the site develop as one development, that could be accomplished under the Planned Development requirement mentioned earlier.

Mueller: There is a General Plan policy that basically requires a PD at freeway interchanges for commercial property. So it seems that the PD that covers the 18 acres and the front piece that's already zoned Highway Commercial is really a requirement of the General Plan—to make sure that everything, including traffic, is handled consistently and appropriately.

Tanda: Why does the Mitigated Negative Declaration not address traffic?

Tolentino: It isn't addressed because there were no impacts identified that needed to be mitigated. However, the Initial Study does include an extensive traffic section with the full TIA. The environmental consultant can answer specific questions.

Moniz opened the floor to public comment and also disclosed that he met with the applicant previously. Mueller, Dommer and McKay also met with the applicant.

Michael Groves, president of EMC Planning Group and representing the Health Trust, appeared. The original plan for the property was to build medical facilities.

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There is no longer a market for that and the location is not really right for that. The Health Trust would like to sell the property. Some of the uses we've discussed are residential, a residential care facility, or a park. We haven't talked much about commercial facilities but we do think it's the best flexible and long term use for the site. The Health Trust is not a developer. Their intention is to sell the property and put the funds back into their non-profit organization. The question is, what is best use of the property for the City? We think that having a commercial designation here is a better use than an industrial designation. If you look at the list of permitted industrial uses it allows laboratories and pharmaceuticals. There are hazardous materials and chemicals associated with that type of facility and that would be right next to the school. We think the issues with regard to traffic and the school are big issues and will need to be addressed. We have no opposition to being involved in a PD process. We think that's appropriate. That gives you a comprehensive use for the site and allows you to see the traffic patterns and also gives you veto power over the uses.

Frederick Ferrer appeared on behalf of the Health Trust. The Health Trust is a public charity. We provide Meals on Wheels, we provide disabled services, we make grants to the YMCA, the Loving and Learning Education Center and others. The Health Trust has had the 18 acres for sale for some time. We have seen no interest in selling or developing this property under its current zoning. Interest in the foreseeable future is not likely without the land use and zoning designation change. The trustees would like to sell the property in order to invest those dollars back into the communities. As the Health Trust we look at the health of the community, so we would never be the ones to propose something unhealthy for residents or school children.

Linda Denice, a homeowner adjacent to the property appeared: I have a six year old granddaughter that I walk down that busy street. It is up to the Planning Commission to make sure that that land is restricted for those children. You talk about commercial development near middle schools, but I don't know of any grade school that has commercial near it. These people are only concerned with the money. If my granddaughter gets hit, you're responsible *[pointing at commissioners.]*

Todd Andersen, president of the HOA for the adjacent subdivision, appeared. The concern of the people I've talked to is that industrial does allow for hazardous uses. Whether it's industrial or commercial, there is still going to be traffic so there will need to be some kind of restrictions. But I'd rather have commercial building than hazardous materials on an industrial site.

Mueller: Did your residents talk about anything more than not wanting industrial?

Andersen: We'd prefer residential or elderly. There is also the possibility of putting a frontage road along the freeway, so the traffic wouldn't even use Juan Hernandez. We know something is going to go there. Our first preference would be residential. If not residential, then commercial. We really don't want industrial.

Mark Sanchez, a broker commercial real estate broker, appeared. I was brought into

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this transaction to determine what to do with this piece of property. The last time it was put on the market, it was right when the market began to drop. We weren't aware what the market was going to do. But even then, we knew that the existing MC zoning is extremely obsolete. In fact, this is the only piece of property in Morgan Hill that is zoned Campus Industrial. Our strategy was going to be up to a two-year escrow for a buyer because we knew a zoning change would be involved. We've hired consultants to get the zoning changed, so that when the market does pick up we're prepared. There are restrictions on doing residential because of the 500-foot rule from the freeway. There could be a little bit on Juan Hernandez. However, in our opinion as professionals, it is not an industrial site. It is a commercial site.

Keith Claxton, of Cassidy Turley, appeared: In analyzing the site, we realized that the current zoning is not adaptable to the way most businesses are developing today. In looking at the community and the City's ordinances, we believe that this is the most appropriate use. It allows the needs of the community to be assessed by potential developers.

John Stansbury, a retail broker, appeared: Morgan Hill only has two key potential regional freeway sites left—this site and the site directly south on the southwest quadrant of Tennant Avenue. A lot of regional retailers will require freeway visibility. Even the remaining space in Cochrane Commons doesn't have freeway visibility. We don't have a large retailer identified. But I think eventually we will have the opportunity to land another regional retail user who will require freeway frontage in Morgan Hill. This site and the site to the south are the only two left. The site to the south is already designated Commercial. The zoning now is incompatible with any potential use that anyone can foresee. The sooner it is converted to commercial use, the better.

Mueller: I think there are some commercial uses on the list that are not appropriate for this site. The only way to restrict the uses in the PD environment is to do that now. We don't have the option after the property has been sold, even with a PD overlay, to then eliminate some of the uses. The PD overlay needs to spell out which uses will be allowed, and which won't. I could see automotive related uses coming off the list.

Stansbury: I see a car dealership being a very benign use as far as traffic.

Mueller: There are vacant dealership sites already entitled. And if we put a restriction on the property, it doesn't mean it can't be amended at a future date.

McKay: It looks like the intent would be to subdivide the property.

Stansbury: Actually, the likely scenario would be that there would be a large user with a developer and they would file an application. I don't see this site being successful as a subdivided site with a myriad of parcels and different developers. There are two existing parcels now, but further subdivision probably doesn't make sense.

McKay: So you don't see residential along the front strip as being a possibility?

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Stansbury: Oh no, we do see some sort of residential transition as being very appropriate.

Groves: A \$50,000 traffic report was done by the City and their traffic consultant for a General Plan amendment and zoning change. It was very thorough. With regard to auto dealerships, there are a lot of dealerships within a ten mile radius of this property so I don't think that is necessarily the best use for this site. Also, the zoning code states that all permitted uses in the respective zoning district are allowed, unless otherwise noted in the PD overlay district. So as the Planning Commission, you will have the ability to weed out uses you don't want when that PD plan comes before you. That is the intention. In fact, an optional preliminary plan review could also be utilized. We feel the appropriate approach is to have a PD overlay district and allow the plan to drive the uses and the Planning Commission govern those uses as the plan comes forward.

Moniz closed the public hearing.

Tolentino: With respect to the planned development overlay, it is true you don't have to define the exact uses at this time. It could be approved at time of submittal, however, if a residential transition zone is being considered by the Commission, that was not analyzed in the environmental document—only senior housing assisted living was analyzed. So I don't believe that we could tonight consider a residential buffer along Juan Hernandez or Barrett Avenue. Single family homes were not analyzed as part of the proposed project description.

Koepp-Baker: So the only transition that could be considered would be a park?

Tolentino: Or assisted living senior housing.

Dommer: Wouldn't senior housing be in the restricted 500 foot zone?

Tolentino: Senior housing is not subject to the same setback requirements as single-family or multi-family residential development. That's why it was included as a possible development scenario.

Mueller: We don't need to decide right now what the transition should be, but we should decide what type of Service Commercial we want to rule out. Typically, we'd like to see the zoning and the PD come in together, but it doesn't always happen. So we'd require the first applicant to do the whole site.

McKay: I think everything we're concerned about is under Conditional Uses.

Mueller: Not really, some of the automotive uses are permitted, such as minor motor vehicle repair. I'd like to see automotive uses removed and then require a freeway-oriented commercial designation, include a requirement for a residential transition, and require a PD overlay with the first application.

We do have the environmental consultant here to answer questions about the initial study.

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Koepp-Baker: What kind of stacking occurs coming off Highway 101 at the light at Juan Hernandez Drive? I've seen it stack up at different times of the day. If there is an access road, that might be mitigated.

Tanda: In the letter from the school district, they raise the concern about traffic around the elementary school. I would be interested in hearing a response from the consultants.

McKay: What would be the worst case scenario if the property remained Campus Industrial?

Akoni Danielson, from David J Powers Consultants, appeared: This was a program level initial study, meaning that we're not evaluating specific projects yet. We're looking at the site in its current condition and the reasonably foreseeable anticipated effects from future development that might be allowed under the land use change. Given that we're not analyzing specific placement of buildings or specific square footage, we're looking at it on a higher level. What are the issues on the site, what are the surrounding uses, how will the two interact in the future, how will the surroundings affect the site? One of the concerns the school district had was where the future commercial development would take access. The traffic assumption was that it would not come off Barrett. The site would be accessed off Juan Hernandez Drive. There shouldn't be any direct conflicts with driveways on Barrett. Another concern of the school district was that they paid for some intersection improvements at Juan Hernandez and Tennant. The school district is looking for some reimbursement from other development that might occur. The traffic analysis shows that simply looking at the project's effects, there are no impacts. That concerns them because of the capacity that exists. The City would have the opportunity to start collecting fair-share fees for infrastructure. Our analysis is that based upon existing conditions, there is adequate capacity below service impact. That intersection could always be reevaluated in the future and the fix could be as simple as a second red turn light.

Mueller: The problem is that the state has a project that is going to impact our ability to expand those intersections that is currently in the process of being approved. So if you just ignore what the state is getting ready to do to that intersection, we could experience a problem. But, as a point of record, the traffic study has 25 percent of the trips coming down Barrett Avenue to this site.

Danielsen: My point is that the project wouldn't have driveways off Barrett. They might be coming to the site from that intersection. But the letter from the school district pertained to driveway access.

Mueller: The concern of the neighbors is that neighborhood traffic will be coming to the site and the traffic study has 25 percent of the traffic coming down Barrett to Juan Hernandez to reach the site.

Danielsen: That is true. This is assuming that traffic would be coming from Butterfield to Barrett to Juan Hernandez. But they wouldn't continue further along Barrett because there would be no access to the commercial site from Barrett.

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McKay: If that's the difference between a campus industrial use versus this commercial use, is that 25 percent more trips this way?

Danielsen: This traffic study was based on the current condition of the site being vacant, the total amount of anticipated new trips and how that could be accommodated into the current roadway system. We didn't evaluate trips associated with the campus industrial use on the property.

McKay: So if the campus industrial remains and the property is improved, we could have the same traffic count, theoretically?

Danielsen: I couldn't say. That would need to be evaluated. Clearly, there are no trips other than from the medical center coming off that site now. So everything would be new, whether it's campus industrial or commercial.

McKay: So the basis of the concern is a 25 percent increase in traffic, as opposed to a vacant lot? So that's not necessarily dependent on a zoning change? That's just use. So if it's used in any manner it could increase the traffic?

Danielsen: Any development of the site is going to produce additional trips to the site. Some of those will use Barrett to get to Butterfield.

McKay: I just wanted to verify that it's not zoning that would create the issue, it's development?

Danielsen: Correct.

Tolentino: I would like to clarify the comment about the fair share cost for the traffic signal. There is an existing reimbursement agreement that would require the current property owner to contribute their fair share for the cost of the traffic signal. That agreement is valid until 2017 and it is due upon development of the site.

Dommer: Can you tell us what you assumed with the traffic study about where the ingress and egress would be?

Danielsen: This was a program level analysis, but it was assumed that there would be no driveway access from Barrett. The only other frontage is on Juan Hernandez and the City will get to negotiate where on Juan Hernandez the entrances will be when the application is received. We don't have that level of detail at this point in the process.

Dommer: Would it be possible to block left and right turns from Butterfield onto Barrett?

Mueller: That would cut off access to the school and the neighborhood by the residents.

Danielsen: The calculation we did was for peak hour traffic. This site would produce about 13 percent of the total trips through the Barrett intersection.

Moniz called for a break at 8:10 p.m. and reconvened at 8:16 p.m.

COMMISSIONERS MUELLER AND TANDA MOTIONED TO APPROVE THE MITIGATED NEGATIVE DECLARATION AND THE MONITORING PLAN

**THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT:
BENICH**

COMMISSIONERS MUELLER AND TANDA MOTIONED TO APPROVE THE RESOLUTION AMENDING THE GENERAL PLAN TO ADD POLICY 7M AND ACTION 7.10 TO THE OPEN SPACE AND CONSERVATION ELEMENT AND CHANGE THE LAND USE DESIGNATION ON THE 18-ACRE SITE TO COMMERCIAL

**THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT:
BENICH**

COMMISSIONERS MUELLER AND DOMMER MOTIONED TO APPROVE THE RESOLUTION AMENDING THE GENERAL PLAN TO CHANGE THE LAND USE DESIGNATION FOR THE 1.7 ACRE SITE ON JUAN HERNANDEZ DRIVE TO COMMERCIAL

**THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT:
BENICH**

COMMISSIONERS MUELLER AND DOMMER MOTIONED TO APPROVE THE ZONING CHANGE TO SERVICE COMMERCIAL WITH A PD OVERLAY THAT WOULD EXCLUDE AUTOMOTIVE RELATED USES AND ADDRESS THE TRANSITION TO THE SCHOOL AND ADJACENT RESIDENTIAL SITES TO THE WEST

Tanda: Do we need to be this restrictive now, when this might not happen for another 20 years in the future? Have we ever done this before?

Mueller: Absolutely, and if an applicant wants automotive in the future, they can always apply to amend the PUD. Almost every other intersection in this town had PUDs with restrictions prior to development.

Tanda: You're saying if we don't restrict it now, we can't deny it in the future?

Mueller: If it's a permitted use, we really can't because it wouldn't come to the Planning Commission. If it's an approved use in the zone, they just ask for a building permit.

Tanda: Why do you feel that automotive uses should be restricted there?

Mueller: Because with residential areas and a school in close proximity, we don't need that type of use on the site. There are other commercial uses that need freeway visibility that we need to have a site plan for. This is one of only two sites left for this type of development.

Tanda: Well, I will be opposing the motion then because I don't want to restrict things now. I don't want to decide now what would be appropriate on the site in the future. I would agree that we should proceed with the zoning amendment but not with all the restrictions on the site.

COMMISSIONERS MUELLER AND DOMMER MOTIONED TO APPROVE THE ZONING CHANGE ON THE 18-ACRE SITE TO SERVICE COMMERCIAL WITH A PLANNED DEVELOPMENT OVERLAY THAT REQUIRES THE PREPARATION OF A DEVELOPMENT PLAN FOR THE OVERALL 20-ACRE AREA (18-ACRE SITE AND ADJACENT 1.7-ACRE PARCEL), EXCLUDES AUTOMOTIVE RELATED USES, AND ADDRESSES THE TRANSITION TO THE SCHOOL AND ADJACENT RESIDENTIAL SITES TO THE NORTH AND WEST

**THE MOTION PASSED (5-1-0-1) WITH THE FOLLOWING VOTE:
AYES: KOEPP-BAKER, MUELLER; MONIZ, DOMMER, MCKAY; NOES:
TANDA; ABSTAIN: NONE; ABSENT: BENICH**

COMMISSIONERS MUELLER AND DOMMER MOTIONED TO APPROVE THE ZONING CHANGE ON THE 1.7 ACRE PARCEL TO SERVICE COMMERCIAL WITH A PLANNED DEVELOPMENT OVERLAY THAT REQUIRES THE PREPARATION OF A DEVELOPMENT PLAN FOR THE OVERALL 20-ACRE AREA (18-ACRE SITE AND 1.7-ACRE PARCEL), EXCLUDES AUTOMOTIVE RELATED USES, AND ADDRESSES THE TRANSITION TO THE SCHOOL AND ADJACENT RESIDENTIAL SITES TO THE NORTH AND WEST

**THE MOTION PASSED (5-1-0-1) WITH THE FOLLOWING VOTE:
AYES: KOEPP-BAKER, MUELLER; MONIZ, DOMMER, MCKAY; NOES:
TANDA; ABSTAIN: NONE; ABSENT: BENICH**

**2) URBAN SERVICE
AREA
ADJUSTMENTS
AND GENERAL
PLAN AND ZONING
AMENDMENT
APPLICATIONS
FOR THE
MONTEREY-
SOUTH OF
WATSONVILLE
PROJECT:**

The "Monterey-South of Watsonville Project" is a compilation of three separate applications encompassing 17 parcels totaling 67.39 acres in size. The three application areas are geographically located adjacent to one another on Monterey Road, south of Watsonville Road. Due to their proximity, the environmental assessment and staff report evaluate the individual applications as one project. Provided below is a description of the individual applicant requests.

A. USA-06-01/GPA-07-02/ZA-08-09: Watsonville – Royal Oaks Enterprises:

A request to amend the General Plan Land Use Designation, prezone, and add six parcels into the Morgan Hill Urban Service Area Boundary. The project area totals 17.34 acres in size. Four of the six parcels propose a General Plan Amendment (GPA) from *Single Family Medium* to *Non-Retail Commercial*, with rezoning to *Light Commercial-Residential* from County Agriculture (A-20Ac).

On one of the parcels, a GPA from *Single Family Medium* to *Multi-Family Medium* and rezoning to *Medium-Density Residential (R3)/Planned Development* from *Agriculture (A-20Ac)* is proposed. The remaining parcel is Santa Clara Valley Water District property and will be rezoned to *Open Space* from *Agriculture (A-20Ac)* to allow for consistency with the existing General Plan *Open Space* designation. The project is located south of Watsonville Road and southeast of Monterey Road. A mitigated Negative Declaration is proposed (APNs 779-04-001, -003, -004, -052, -056, and -067).

B. USA-08-08/GPA-08-08/ZA-08-08: Monterey – Morgan Hill Bible Church:

A request to amend the General Plan Land Use Designation, prezone, and add two parcels into the Morgan Hill Urban Service Area Boundary. The project area totals 9.48 acres in size. A General Plan Amendment from *Single Family Low* to *Public Facility* and rezoning to *Public Facility* from County *Agriculture (A-20Ac)* is proposed for both parcels. The project is located southeast of Monterey Road, between John Wilson Way and West Middle Avenue. A mitigated Negative Declaration is proposed (APNs 779-04-016 and -061).

C. USA-08-09/GPA-08-09/ZA-08-10: Monterey – City of Morgan Hill:

A request to amend the General Plan Land Use Designation, prezone/rezone, and add nine parcels into the Morgan Hill Urban Service Area (USA) Boundary. The project area totals 40.57 acres in size. Seven of the nine parcels are currently located within the City limit but outside the USA. On six of the parcels, a General Plan Amendment (GPA) from *Single Family Medium* to *Non-Retail Commercial* and rezoning to *Light Commercial-Residential* from *RE (100,000)* is proposed. On two of the parcels, a GPA from *Single Family Low* to *Non-Retail Commercial* and rezoning to *Light Commercial-Residential* from County *Agriculture (A-20Ac)* is proposed. The Oakwood Country School is located on the remaining parcel; the General Plan designation of *Single Family Medium* will remain the same on the school site, but a zoning change from *RE(100,000)* to *R1(9,000)* is proposed. No specific development is proposed by the project at this time. The project is located southeast of the intersection of Monterey Road and Watsonville Road. A mitigated Negative Declaration is proposed (APNs 779-04-005, -010, -015, -030, -032, -033, -072, -073, and -074).

Tolentino presented her staff report: A comment letter was received from the Committee for Green Foothills citing their concerns with the proposed environmental document. Also, there are four other agencies that have requested additional time to provide comments on the environmental document. So although the public comment period officially closed, other agencies have requested additional time and as a professional courtesy, that will be granted.

Mueller: Why don't we wait until those comments come back?

Tolentino: You can decide to continue the item, or you can request that the staff report come back to you on November 8th if there are any substantive comments received.

Koepp-Baker: What is the benefit to the City to take in these tracts of land?

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Tolentino: Seven of the nine parcels are already in the city limits, so one strong benefit is to clean up our boundaries. We also expect that if these properties are in the Urban Service Area (USA) they will apply for annexation. The General Plan land use designations will also recognize existing uses that are currently out there. Quite a few of these properties are already developed with some sort of commercial use, so the proposed land use designation recognizes these uses but also allows for future development of the site as well.

Mueller: I don't believe that the General Plan for this large area of land has changed since the 1990 update when it was stated that this area should stop allowing commercial south of Watsonville Rd and that it be reserved for residential. So why are we going against two major plan reviews that have looked at this area previously?

Tolentino: There is a General Plan policy that essentially discourages commercial use south of Watsonville. It is staff's interpretation that that reference is intended for commercial retail uses, which are more intensive uses and generate more traffic trips. We have tried to group those uses towards the central corridor of town along Monterey Road. But the commercial designation really allows for a wide range of uses from office to retail. If you look at the light commercial residential district that is being proposed for this area, the uses are intended to be lower trip generating uses—more like jewelry repair, floral shops, etc. Those would still be classified as commercial but not to the same level as retail development where there is a higher turn over.

Dommer: Are there any negative financial impacts in doing this?

Tolentino: Subject to the City's approval, the next step would be to go to the Local Agency Formation Commission (LAFCO). As part of that process we will need to do a fiscal analysis, wherein we will have to identify what impact these properties will have to the City's general fund.

Dommer: Regarding the letter received from the mushroom farmer, what would be the benefits to that business by this motion?

Tolentino: Royal Oaks Mushroom Farm is one of the applicants. If the applications are approved and they're annexed into the City, his intent is to cease operations of the mushroom farm and redevelop the site with a potential mixed use development at the corner of Monterey and Watsonville and possibly put a senior housing development on the western portion of the site.

Tanda: Page 6 of the report talks about the physical criteria that will allow you to expand the USA. It states that the total area to be added to the USA cannot exceed 20 acres. Except for Oakwood School, each individual parcel is less than 20 acres, but the aggregate exceeds 20 acres.

Tolentino: That is correct. The 20 acre limitation is in the policy for inclusion in the USA. It wasn't contemplated for properties that were already in the city limits but outside the USA. So for Oakwood School, which is already in the city limits, staff did not feel that the 20 acre limitation applied to them. That is consistent with

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the interpretation made in 2008 when the City initially presented the application to City Council.

Moniz: Are you confident that LAFCO will interpret it the same way?

Tolentino: In initial conversations, they are happy that there is no impact in terms of extending our city's boundaries. But we haven't received any formal comments from LAFCO. There are never any guarantees, so I can't say for certain; however, we are cleaning up our boundaries so there is a definite benefit to our application.

Moniz: Is there a precedent for this?

Tolentino: Not that I'm aware of.

Tanda: If I add up all the parcels besides Oakwood School, it totals about 35 acres, which exceeds the 20 acre limitation.

Tolentino: The 20 acre rule only applies to the residentially designated land, so there are only two parcels with that designation: one is Oakwood School and one is part of the Royal Oaks site. The Royals Oaks site is about 7.5 acres.

Tanda: I had the impression that the proposed zoning, Light Commercial-Residential, was considered residential.

Tolentino: In the staff report we analyzed it two different ways. Technically, if you look at the General Plan, it lists Light Commercial Residential as a non-residential designation. So technically, it is considered commercial for the purposes of the policy. However, to provide a more conservative review we did analyze it as if it were to be considered residential. We still feel it meets all the criteria for inclusion in the urban service boundary: Each individual parcel is less than 20 acres; there is public benefit in that we are cleaning up the boundaries; and we ran the numbers to see if these properties would pass Part One under the residential control system and they would. We feel that under either scenario we would still be able to make the findings.

Tanda: I don't want to belabor this, but if it is considered residential, it is more than 20 acres. Because as the report points out, it's total acreage, not acreage for each parcel.

Tolentino: I believe the intent is each individual parcel. To give an example, since LAFCO only entertains one application from each jurisdiction per year, it is not uncommon for us to have multiple parcels being presented at one time and in totality they are more than 20 acres.

Dommer: The letter that came from the Community for Green Hills, is very specific about the City not meeting the formulas to comply. Can you respond to that?

Tolentino: The items that she's citing have to do with LAFCO's filing requirements. At this time we haven't prepared those applications, but those are

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things we're going to need to address before going to LAFCO.

McKay: Part of it involved access to a property for environmental studies and also potential flooding issues.

Tolentino: In response to Julie Hutcheson's letter, she refers to LAFCO's policies about projected demand for commercial and residential land or supply of land within the different land use designations. We are required to provide to LAFCO the existing inventory of vacant land within each land use designation and we will have to show a need for including these designated lands within our city boundaries. At this time, there is more than a five year supply of undeveloped residential land in the city. However, our policy does allow us to submit an application through LAFCO under the desirable infill criteria. We feel this represents desirable infill.

Koepp-Baker: Has the water retention issue on the Oakwood site been remediated?

Creer: No, that has not been remediated yet. It won't be remediated until PL566 is constructed.

Mueller: In the Initial Study, it refers to a diversion channel that the Water District is preparing to build that will dramatically affect the drainage field and therefore the flooding. Is that not true?

Creer: I'm not aware of any diversion channel in PL566, itself.

Mueller: No, it is a diversion channel on the property that they're talking about as open space. The Initial Study says it's going to be built long before PL566 is constructed.

Akoni Danielson of David J. Powers Consultants appeared: We prepared the Initial Study. The area is in a 100-year flood zone. There are plans in place by the Water District and the City to deal with that, as shown on page 134 of the Initial Study. The Water District parcel, APN 779-04-067, which is included within the project boundary, is where the diversion channel that is being referenced is located.

Mueller: When is it going to be built?

Danielsen: The information that we had in writing was that the District and the City had plans to do something after 2015.

Mueller: What was your source for that information?

Danielsen: That was in the Gilroy Dispatch.

Mueller: I would like to know if the Water District is going to build that channel prior to the full PL 566 and if the Water District has the money. Because without it, I believe we're looking at the difference between 100 percent flood level and the low point in that land was over five feet.

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Danielsen: We've identified all the programs and policies that the City has in place to prevent construction of housing in the flood zones and to address existing conditions. Obviously, if development comes forward on any one of these parcels that is in the flood zone and it is in advance of the flood construction project, then that would be a problem. They would need to mitigate for that specific site at that point.

Mueller: And that is basically to put the ground floor one foot above the 100-year flood water point?

Danielsen: Yes, and then also consider to what extent their portion of the site would be redirecting flood water elsewhere.

Mueller: Right, because they could actually be prevented from redeveloping based on too much redirection.

Danielsen: So the bigger solution long term is PL566.

Mueller: I looked at the project as it was outlined for the purposes of the environmental review and it actually contains a lot of square footage for extensive retail. How is that done in a CL-R district?

Tolentino: We took more of a conservative approach, because under the conditional uses that are allowed in the CL-R district, we wanted to assume some retail—which would still require a conditional use permit, with review by the Planning Commission—but we didn't want to take the easy route and just use the permitted uses. We also wanted to give a broader review under the environmental assessment by including uses that were conditional.

Mueller: So you cited the General Plan policy that discourages commercial use south of Watsonville. I believe the General Plan policy right before that says to focus commercial north of Watsonville including all shopping areas. So I'm having a real problem with the commercial aspect of this south of Watsonville. I believe under a PD that an assisted living for seniors doesn't require that high of a density to develop. As long as it's residential land with a PD overlay, a group home could be built there because that might only have a density of two people.

Tolentino: I believe it would require a multi-family designation.

Mueller: Isn't a fair amount of the south side Watsonville is already multi-family low?

Tolentino: Single family medium and single family low are the current general plan designations.

Moniz opened the floor to public hearing.

Don Hordness, owner/manager of Royal Oaks Mushrooms, appeared to answer questions. We have basically been zoned out of mushroom growing. It is an odiferous endeavor. For the last 15 years, we've needed to move on and upgrade

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our facility. There is no way to upgrade in its present location. The buildings are not set up for the type of machinery we would need. New technology in mushroom growing eliminates wooden trays. From a worker safety standpoint, we need to raise and lower our pickers on platforms as opposed to straddling beds to pick them. We have been working with staff on this project for the last six years. We originally proposed the inclusion of the farm in the USA in 2006. I ask for your approval.

Dommer: Is your move a financial situation that this needs to happen before you move, or are you moving no matter what?

Hordness: I've got about a five year window. But yes, we will be moving and it would be nice if we could do something with the property before we move. As farmers, we put all our profits back into the land. To sell the property as agricultural land to another developer who is going to reap that benefit is something we don't want to do.

McKay: Part of the commitment is that you would improve the south side of Watsonville Road. With all the development going on right now, how does the City coordinate that?

Creer: Typically this property would develop their frontage as part of the development process. I think the question is, if five years goes by and they don't develop what would happen to that roadway frontage?

McKay: Isn't the plan to widen Watsonville Road to match up with the Butterfield extension at some point?

Creer: Yes, and we'll be widening a portion just west of Monterey Road to accommodate the lane configuration that we need at the intersection when Butterfield is built. The rest would be widened as development occurs on either property north and south of Watsonville.

McKay: So the widening isn't dependent on the Royal Oaks contribution?

Creer: If Royals Oaks stayed as-is with a mushroom farm in perpetuity, we would at some point have to acquire the right-of-way and construct that portion of Watsonville ourselves and Royal Oaks would not be obligated.

Mueller: But urban service amendments now have certain conditions under which they are now done by initiative. And there is a timeline in there and there's a certain commitment that has to be made and documented by contract on or before the approval to expand the USA is in place.

Mark Rauser, Director of Administration with the Morgan Hill Bible Church, appeared: We believe that being annexed in would be a boost to Morgan Hill. We purchased the property in the 1990s. About ten years ago we went before LAFCO and tried to do an out of area service application to be able to hook up to city services. At that time it was denied because we were zoned agriculture but we were still in the county, and agriculture has a limitation of 10,000 square. We are over

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that. We worked with the county to get around that. They told us that the preferred route to take would be annexation. In 2008 we made that application. In the meantime, we had to move our offices offsite to make room. We've had to divide our services to fit everyone within the 10,000 square feet. More importantly, our Use Permit is as a community center and more than 50 percent of the use of our facility is by outside organizations that can't afford their own place, such as the Boy Scouts, Girl Scouts and Narcotics Anonymous. One of the things I wanted to highlight is that by being annexed into the City, we would be able to provide better services to the community.

Moniz closed the floor to public comment.

McKay: I guess I don't understand the flood plain issue. I think we need something more reliable on the timeline if we are actually hinging part of our decision on the control of flooding. Also, for biological resource evaluation, what was the reason for not following up on the four parcels that weren't included?

Danielsen: Those parcels are actually developed with buildings and pavement, so there was really no reason to send a biologist out to those sites. When an actual project does come forward, there would be a further study done.

Dommer: If this is voted in and the application is approved so that this land is able to pick up utilities with the City, what kind of budget is required to cover that?

Creer: They would either have to extend the public lines and connect or they would connect to the public lines and pay their prorata share for their portion.

Mueller: Rebecca, didn't you say you evaluated their ability to score on Part One and they all passed?

Tolentino: Yes.

Mueller: So if they all passed, that says the basic infrastructure is capable of handling the impact of these developments.

Dommer: So all the financial burden of connecting is born by the applicants?

Creer: With respect to the public utilities, yes. They would either buy in to the existing utilities, or extend the utilities at their own cost.

Dommer: Since we don't have a fiscal report, I'm just trying to see if there is a downside to this.

Mueller: Fire and emergency medical service in this area of town are not paid for directly by the City of Morgan Hill. A little bit south of Cosmo the first responding fire engine is under a mutual aid agreement with CalFire on Monterey. We don't pay directly for that. That mutual aid they have been providing has been a large source of discussion. This will exacerbate the usage, and commercial even more than residential.

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Moniz: Is that correct?

Tolentino: With respect to the mutual aid, that is correct. Cal Fire does provide service to the southern portions of town under a mutual aid agreement. Our contract is with County Fire, but Cal Fire provides mutual aid. As Senior Engineer Creer has stated, in terms of impacts to the General Fund, the utilities portion would be paid by the applicant but the impact for Police and Fire would have impact on the General Fund, and that's part of the analysis that will be done with the LAFCO filing requirement.

Moniz: So this is step one, including City Council approval. If it is approved, you will prepare your fiscal impact report and then it goes to LAFCO, but doesn't ever come back to Planning Commission or City Council?

Tolentino: That's correct.

Dommer: I just think it would make sense to hear the comments from the four other agencies before we vote.

Tanda: What are the four agencies that have comments?

Tolentino: We don't know if they'll have comments. They're just requesting additional time to be able to provide comments. They are: County Planning, LAFCO, Santa Clara Valley Audubon Society and the Santa Clara Valley Transportation Society. I also received a message from County Roads and Airports with additional questions, so that's a potential fifth agency.

Koepp-Baker: It seems we would be precipitous to make a decision now without hearing from those agencies. That, coupled with the fact that the flood issues have not been remediated, I am not prepared to move forward tonight.

Tanda: I agree with that. The other thing, though, is that this area is in our sphere of influence. I am of the opinion that anything developed in the area should be done through the City of Morgan Hill, and not through a county process. With respect to the flooding issues, a lot of other properties in Morgan Hill are also subject to the 100-year flood but they're still within Morgan Hill. The City has the ability to address those issues at the project level, so that should not preclude them from becoming part of Morgan Hill. I would like a little more response from staff on their position of allowing commercial south of Watsonville, since that goes against our General Plan.

Mueller: We need to continue this item until we get some closure from the other agencies, especially since LAFCO is one of them. I'm also not convinced that we need to add this much commercial to our boundaries, since it has been a long standing plan to avoid commercial south of Watsonville. Just as a point of reference, the continuation of Butterfield to join up with Watsonville was anticipated when Butterfield was originally planned and that went into the General Plan Circulation Element with the 1990 update, so the idea of a large intersection there is not something new. I'm also not convinced that we need to do the commercial component of this because there is no way that the theoretical 700

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anticipated residents would generate enough demand for this much commercial. That means we would potentially be causing vacancies in other areas.

Koepp-Baker: I would very much like to know how much existing commercial space is vacant in Morgan Hill. Can you get that information to us?

Tolentino: I will get that for you in the next report.

Moniz: I spoke with Julie with the Committee for Green Hills. She mentioned that some of the information in the Initial Study wasn't available in a timely fashion. I want to know that this process conformed to CEQA guidelines.

Tolentino: This process does conform to CEQA guidelines. The environmental document was available for public review at the start of the public comment period and in hardcopy and soft copy at the city offices. What Ms. Hutcheson is referring to is that the document was not loaded to our website until a later date. However, the notice of intent that was mailed out to all agencies and property owners made reference to the availability of the document at City offices. We provide it on the website as a courtesy to interested parties, but it is not required under any of the noticing laws or CEQA. So we have complied.

Moniz: We really do need to hear from the other agencies before making a decision. Regarding the commercial/residential zoning, what's the binding agreement? We have two timelines here—one is a conditional timeline, one is a city timeline. How would those mesh? Would the city take funds from this project or share in the construction of this project?

Creer: Once they received approval, they'd have five years. So Butterfield would probably be complete by then.

Moniz: So you'd stop at a certain point.

Creer: Correct.

Moniz: Wouldn't it be beneficial to finish the whole section at the same time?

Creer: From a cost standpoint, it might be beneficial to the applicant. But we've been out to bid and the project will hopefully get under construction shortly.

Moniz: So that will happen before this project could reach realization.

Creer: Yes, that's correct.

**COMMISSIONERS MUELLER AND MCKAY MOTIONED TO
CONTINUE AGENDA ITEM 2 TO NOVEMBER 8th**

**THE MOTION PASSED(6-0-0-1) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT:
BENICH**

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OTHER BUSINESS:

**3)RESIDENTIAL
DEVELOPMENT
CONTROL SYSTEM
(RDCS) THIRD
QUARTERLY
REPORT FOR 2011:**

Quarterly review of the progress of residential projects that have been awarded building allocations under the City's Residential Development Control System.

Rowe presented his staff report.

Mueller: Are there projects that are just not moving forward with any action that have had numerous extensions before?

Rowe: There are several projects that if they haven't achieved the necessary completion to garner favorable consideration from City Council, will not be recommended for extension. So those projects' allocations will expire.

Mueller: Are there other projects that are not moving and have changed developers several times? If so, we ought to pull them up now, instead of waiting.

Rowe: The one you're specifically referring to included one of those intermediate milestones, which was the reason for calling the project up.

Moniz: What is the process?

Rowe: As part of the quarterly review, if you feel they're not making satisfactory progress you can request that those specific projects be brought before you to consider rescission. In terms of the statutes, only a Planning Officer is required to review. And if projects fail to proceed according to the approved development schedule or fail to submit the appropriate plans and applications, then it is the Planning Officer's responsibility to report that to the City Council. The Council may, after holding a hearing, rescind the allocations. So it is not necessary for it to come before the Planning Commission, although you can give direction to staff.

Mueller: If there are projects that aren't performing, I don't think we should wait until their allotments expire in 2012. I think we should call them up now.

Koepp-Baker: What about Monterey-Gunter?

Tolentino: They do have some site cleanup issues, but those aren't things that would preclude them from submitting the applications that are outstanding.

Moniz: So you would like a representative from Monterey-Gunter to be called before the commission?

Koepp-Baker: Yes.

Mueller: What about the Monterey-Alcini project?

Rowe: The applicant elected not to apply for an extension of the building allocations and they expired June 30, 2011.

Creer: They also have another project on Church and San Pedro.

Koepp-Baker: So the San Pedro-Alcini should also be marked in default.

Mueller: What's going on with Hale-Signature?

Tolentino: They just started their environmental. Did the commission want a report on Del Monte-Giovanni, since the applicant is here? In terms of activity, the applicant did submit a master plan with the Building Division as required by the Commission. It has gone through plan check and they have submitted a second round of plans for review. So there has been activity on the project. They have met five out of the six steps. When the permits get issued they will have six out of six steps complete.

Mueller: This says no corrected plans have been returned.

Tolentino: They were submitted today.

Mueller: Interesting. What about Monterey-Liou?

Rowe: They filed their application during the first quarter of 2011.

Tanda: This does not seem to be the most efficient method of action. Maybe staff could point out for us which projects we should focus on at a future meeting.

**COMMISSIONERS MUELLER AND MCKAY MOTIONED TO APPROVE
THE QUARTERLY REPORT WITH NOTICE TO CITY COUNCIL THAT
THE PLANNING COMMISSION WILL CALL UP THE MOST
DELINQUENT PROJECTS FOR REVIEW**

**THE MOTION PASSED(6-0-0-1) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT:
BENICH**

**4)HOLIDAY
MEETING
SCHEDULE:**

Review and discuss meeting schedule for November and December.

Rowe: We have regular meetings on the 8th and 22nd of November. There are already several items scheduled for November 8th, so we recommend holding that meeting. Currently, there are no items scheduled for the 22nd. It is necessary to cancel the December 26th meeting because it falls during the City furlough period. On the 13th of December you will be holding the public hearings on 12 RDSCS applications and if we need more time to complete those public hearings, we recommend holding a special meeting on the 15th of December. So you may have two meetings in December but they would both in within the same week.

Mueller: Given all the development agreements on November 8th, what are our options for starting early?

Moniz: Will those be considered individually?

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Rowe: There will be separate hearings, but one agenda item.

Moniz: So we're looking at November 22nd and December 26th as the days we're going to strike?

Mueller: I agree with that. But for the next meeting, with all the development agreement amendments and the General Plan amendments, shouldn't we meet earlier?

Rowe: If you're going to do that, you should deal with the continued item first, at 6:00 pm and then hear the others.

Moniz: Could everyone make it at 6:00 p.m.

Tanda: I coach high school football and that's our last week of practice, so I would probably be late.

Moniz: Okay, so that's agreed on? *[Commissioners indicated consensus.]*

ANNOUNCEMENTS /
COMMISSIONER
IDENTIFIED ISSUES

Dommer: We are allowed to talk to an applicant during a break? Because one of the parties in opposition to the application item said we were showing favoritism.

Rowe: Yes you can.

Mueller: The only caveat is that there can't be more than one or two commissioners in that discussion.

McKay: We did offer equal opportunity for her.

Rowe: I did explain that staff provides an impartial, objective professional recommendation. The Commission considers those and acts on an advisory capacity to the Council. The Council is the ultimate decision making body on this item.

CITY COUNCIL
REPORTS

None.

ADJOURNMENT

Noting that there was no further business for the Planning Commission at this meeting, Chair Moniz adjourned the meeting at 10:02 p.m.

MINUTES RECORDED AND TRANSCRIBED BY:

ELIZABETH BASSETT, Development Services Technician